



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,395	07/30/2003	Rodney Abair	34061-5	8364

7590 02/28/2005

Woodard, Emhardt, Moriarty, McNett & Henry LLP  
Suite 3700  
111 Monument Circle  
Indianapolis, IN 46204

EXAMINER

HURLEY, KEVIN

ART UNIT	PAPER NUMBER
----------	--------------

3611

DATE MAILED: 02/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/630,395

Applicant(s)

ABAIR, RODNEY

Examiner

Kevin Hurley

Art Unit

3611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 and 19 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 and 19 is/are rejected.
- 7) ☒ Claim(s) 12 and 13 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 30 July 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the longitudinally extending assembly comprising more than one translating portion (claim 7) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as “amended.” If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either “Replacement Sheet” or “New Sheet” pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

2. Claim 7 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

There is no description in the specification as originally filed as to how the longitudinally extending assembly comprises more than one translating portion. Only one translating portion 32 is shown and described.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-6, 8, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Grace in view of Shilitz et al.

Grace discloses an adjustable trailer hitch, comprising:

a longitudinally extending telescopic assembly comprising a stationary portion 28 adapted to be fixed to a vehicle, and a translating portion 34 translatingly attached to the stationary portion and adapted to translate longitudinally relative to the stationary portion;

a first control mechanism comprising a motor 48 operatively attached to the longitudinally extending assembly to controllably translate the translating portion longitudinally

Art Unit: 3611

relative to the stationary portion;

a latitudinal cross bracket assembly 60 attached to the translating portion such that the latitudinal cross bracket assembly translates longitudinally when the translating portion translates longitudinally;

a hitch portion 120 translatingly attached to the cross bracket assembly and adapted to translate latitudinally relative to the cross bracket assembly;

a second control mechanism comprising a motor 130 operatively attached to the hitch portion to controllably translate the hitch portion latitudinally relative to the cross bracket;

and a controller 152 operatively connected to the first control mechanism.

Grace fails to disclose a receiver, instead having a ball hitch 14 mounted on a plate.

It is known in the art, for example as shown by Shilitz et al., to use a receiver 12 instead of a single hitch, in order that a variety of hitch types may be used.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grace by using a receiver instead of a single hitch, in order that a variety of hitch types may be used.

5. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grace as applied to claims 1-6, 8 above, and further in view of Motilewa.

Grace discloses the claimed invention except the longitudinally extending assembly comprises a hydraulic cylinder actuator instead of a worm gear.

It is well known in the art, for example as taught by Motilewa (see col. 7 lines 59-65) to use an electric motor in conjunction with a worm gear mechanism in place of a hydraulic drive,

the two being art recognized equivalents.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Grace by using a worm gear mechanism, in view of Motilewa, as the two are art recognized equivalents.

6. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grace as applied to claims 1-6, 8 above, and further in view of Shilitz et al.

Grace, as modified above, discloses the claimed invention except for a worm gear operatively disposed between the latitudinal cross bracket assembly and the hitch receiver portion.

It is known in the art, as taught by Shilitz et al., to use a worm gear mechanism 10 to move a hitch assembly 10 in a latitudinal direction as part of an adjustable hitch assembly, the two being art recognized equivalents.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to further modify Grace by using a worm gear mechanism in place of a hydraulic cylinder assembly, in view of Shilitz et al., the two being art recognized equivalents.

7. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Grace as applied to claims 1-6, 8 above, and further in view of Motilewa and Shilitz et al.

Claim 11 is rejected for the reasons set forth in the rejections of claims 9 and 10 above.

*Allowable Subject Matter*

8. Claims 12-13 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

*Conclusion*


9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited references disclose adjustable trailer hitches.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Hurley whose telephone number is 703-308-0233. The examiner can normally be reached on Monday-Friday 9:30-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3611

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
Kevin Hurley  
Primary Examiner  
Art Unit 3611

February 23, 2005